

### **REMARKS**

Claims 1-16 and 18-29 are pending in the application. Claim 17 was canceled without prejudice to the subject matter therein. Claims 20-24 and 29 have been withdrawn from consideration without prejudice to the subject matter therein.

#### **The Specific 35 U.S.C. §103(a) Rejections**

Claims 1, 2, 12, and 13 stand rejected under 35 USC §103(a) as being allegedly unpatentable over U.S. Pat. No. 3,991,750 to Vickery in view of U.S. Patent No. 5,302,201 to Lucke. Claim 3 stands rejected under 35 USC §103(a) as being allegedly unpatentable over Vickery in view of Lucke, further in view of U.S. Patent No. 4,489,026 to Yalkowsky. Claim 4 stands rejected under 35 USC §103(a) as being allegedly unpatentable over Vickery in view of Lucke, further in view of U.S. Pat. No. 4,581,242 to Forster. Claims 5, 6, 8, 14-16, 18, and 25-28 stand rejected under 35 USC §103(a) as being allegedly unpatentable over U.S. Pat. No. 5,756,553 to Iguchi et al. in view of Forster, further in view of U.S. Pat. No. 6,607,598 to Schwarz et al. Claims 7, and 9-11 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Vickery in view of Lucke, further in view of U.S. Pat. No. 4,586,457 to Dunajtschik. Claim 19 stands rejected under 35 USC §103(a) as being allegedly unpatentable over Vickery in view of Lucke, further in view of U.S. Pat. No. 3,696,188 to Fernandez et al.

#### **The Rejected Claims Are Patentable Over The Cited References**

Claims 1-4 are patentable over the cited references at least because neither Vickery nor Lucke disclose or suggest “placing therapeutic into the drum by moving the therapeutic through a channel positioned in the drum, the channel containing a plurality of orifices.” The Office action recognizes that Vickery, which regards a treated pellet for controlling the weight gain of animals, does not teach or suggest this language. The Office action attempts to remedy this deficiency by combining it with Lucke. However, the Office action provides no evidence of motivation for making this combination. While the Office action makes the statement “it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have coated cores of Vickery using a rotary drum of Lucke,” there are no underlying reasons provided, it is simply a conclusory statement.

Even if a teaching did exist to combine Vickery and Lucke, which none does, their combination does not render claims 1-4 unpatentable at least because neither Vickery nor Lucke teach or suggest the recited language. The portion of Lucke cited by the Office action for the notion of moving a therapeutic through a channel in a rotating drum does not teach or suggest this concept. While the word pharmaceutical is used at col. 4 line 22 of Lucke, it is being used to refer to the tablets being coated by the process of Lucke, not the content of the coating being applied. Thus, as there is no therapeutic being applied in Lucke, Lucke does not disclose or suggest the recited language.

Claims 12 and 13, which were rejected over the combination of Vickery and Lucke are patentable over them for several reasons as well. For one, like above, there is no motivation to combine them. For another, neither reference discloses or suggests “drawing a compressible fluid into the drum,” as in claim 12 and “heating the rotatable drum after spraying the therapeutic into the drum,” as in claim 13. Lucke, at col. 7 lines 30-38, the portion cited by the Office action to reject claim 12, does not disclose or suggest drawing a compressible fluid into a drum. Rather, in Lucke, the compressible fluid is pushed through the drum 58. As for claim 13, there is no disclosure or suggestion to perform the affirmative step of heating the rotatable drum after spraying therapeutic into the drum. The portion of Vickery cited by the Office action heats the bed while coating is ongoing, not afterwards. For at least these reasons, claims 12-13 are patentable over the cited references.

As to claims 5-6, 14-16, and 18, they are patentable at least because the Office action has failed to provide any evidence of a motivation to combine the references. Moreover, the references themselves do not disclose or suggest language of the claims. For instance, none of them disclose or suggest placing an implant with a masking material into the drum of a pan coater. Schwartz, which is cited as teaching this language, regards the use of an air suspension type device, one that does not include any type of pan coater. The other cited references are even further removed.

As to claims 7-11, they are patentable over the references at least because there is no motivation to combine the references. In fact, the references teach away from the suggested combination. Should the drum 48 of Lucke be sealed in a manner taught by Dunajtschik (at col. 7, lines 14-26), the Lucke system would not function as the segments 51 would not be able to allow air to exit the drum. Without this venting, Lucke simply wouldn't work and could even fail if pressure inside the drum exceeded its design limits.

Claim 19 is patentable over the cited references at least because none of the cited references disclose or suggest "recycling therapeutic that did not adhere to the implant during spraying."

As to claims 25-28, they are patentable over the cited references at least because none of them disclose or suggest "injecting a compressible fluid into the drum with a force sufficient to maintain the medical implant aloft in the drum to tumble the medical implant." For one, none of the cited references show any object aloft, let alone a medical implant being coated as recited in the claims. Moreover, as with all of the other rejected claims, there is no motivation to combine the references as suggested in the Office action.


**CONCLUSION**

In view of the foregoing, the undersigned requests reconsideration and allowance of the pending claims.

Should the Examiner have any questions concerning this application, the Examiner is invited to contact the undersigned at the number given below.

Respectfully submitted,

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